

REMARKS

Claims 1-11 are currently pending in the present application. Claims 1, 3-5 and 8-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gibbs (U.S. Patent No. 5,836,529) (“Gibbs”) in view of Good (U.S. Patent No. 6,477,452) (“Good”), and further in view of Kidd et al. (U.S. Pub. No. 2002/0013685) (“Kidd”). Claims 2 and 6-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gibbs in view of Good, and further in view of Jarrett (U.S. Patent No. 6,345,257) (“Jarrett”), and further in view of Kidd. By way of the present amendment, claim 1 has been amended to more clearly define the invention and reorganize the claim to improve its clarity. Reconsideration of this application is respectfully requested, and Applicants respectfully submit that the application is in condition for allowance.

In the present invention, a method for inspecting rail equipment, storing information relating to the inspection, and automatically generating a repair disposition report comprises, among other things, a data entry system that (1) calculates an overall damage condition of the rail equipment from information input into the system; (2) automatically assigns a disposition of the rail equipment based on the overall damage condition of the rail equipment, and (3) generates at least one report showing the overall damage condition of the rail equipment and the automatically assigned disposition. In this way, the present invention allows for collection and maintenance of condition assessments of rail equipment, particularly out-of-service rail equipment, which provides a condition inventory to source rail equipment for new orders in a timely and economical manner.

The Examiner rejected claims 1, 3-5 and 8-11 under 35 U.S.C. § 103(a) as being obvious over Gibbs in view of Good, and further in view of Kidd. The Examiner rejected Claims 2 and

6-7 under 35 U.S.C. § 103(a) as being obvious over Gibbs in view of Good, and further in view of Jarrett, and further in view of Kidd. Applicants respectfully traverse these rejections.

Unlike the present invention, Gibbs discloses an object based railroad transportation network management system that automatically maintains a railroad system information database and generates nested maps, tables, charts, and alerts for providing varying levels of real-time perspective on an operating railroad system (*see* Col. 3, l. 65-Col. 4, l. 4). The system comprises a set of wayside occupancy detectors, an output device, a memory, and a processing unit (*see* Col. 2, ll. 51-53). Each wayside occupancy detector generates a set of transport detection signals in response to detecting a set of mobile transports, e.g., trains, locomotives, crews, cars, end of train devices, passing a particular geographic latitude and longitude on a transportation network (*see* Col. 2, ll. 53-56, Col. 4, ll. 50-51, 55-58). Gibbs further discloses a central computer acting as a hub that organizes and stores railroad system information so that it can retransmit the information in response to requests from any of the nodes connected to the central computer (*see* Fig. 1, Col. 5, ll. 12-20, 28-31). The system disclosed by Gibbs provides selectable status and performance criteria, and real-time status and performance data of the mobile transports throughout the transportation network, *i.e.*, where the mobile transport is located and whether the mobile transport is on time (*see* Col. 2, ll. 41-47, Col. 3, ll. 10-20, 27-29, Col. 4, ll. 30-37, Col. 16, ll. 38-50, Col. 22, ll. 12-16, 25-30, 61-65).

As acknowledged by the Examiner, Gibbs fails to disclose querying a user of the data entry system for information relating to the damage condition of each of the parts of the rail equipment, entering information related to the damage condition of each of the parts of the rail equipment into each of the plurality of fields, and a data entry system that automatically assigns one of the dispositions to the rail equipment based on the overall damage condition of the rail

equipment. In addition, Applicants respectfully submit that Gibbs does not disclose a data entry system that calculates an overall damage condition of a rail equipment from the information input into the data entry system, or a data entry system that generates at least one report showing the overall damage condition of the rail equipment and the disposition automatically assigned by the data entry system to the rail equipment, as presented in amended claim 1. To cure the deficiencies of Gibbs, the Examiner relies on Good and Kidd to supply the missing features.

However, Good discloses a method and system for managing a vehicle fleet to predict the availability of a vehicle. Good discloses a local communications terminal 103 which is preferably located at a repair and service station having responsibility for repairing vehicles and providing routine service and maintenance (*see* Col. 3, ll. 25-29). At the time of service of a vehicle, Good discloses a user creating a service event notification by logging vehicle repair and service information using local communications terminal 103. One or more service event notifications comprise a vehicle service status file, or in other words, a vehicle service status file is comprised of one or more service event notifications (*see* Col. 5, ll. 55-67). The vehicle service status file is then uploaded periodically to a regional communications terminal 102 where personnel at the regional location use the service status file to manage reservations of vehicles (*see* Col. 7, ll. 25-50).

Tellingly, Good does not disclose a data entry system that calculates an overall damage condition of rail equipment, assigns a disposition to the rail equipment based on the overall damage condition, and generates at least one report showing the overall damage condition and the disposition automatically assigned by the data entry system. Rather, Good discloses a user, such as a service professional, entering vehicle repair information, including, for example, type-of-service-required information (*see* Col. 5, ll. 55-66). Good nowhere teaches or suggests a data

entry system that calculates an overall damage condition of the rail equipment based on information input by the user. Furthermore, nowhere does Good teach or suggest assigning a disposition to the rail equipment based on the overall damage condition, nor generating at least one report showing the overall damage condition of the rail equipment and the disposition automatically assigned by the data entry system. Thus, Good does not cure the deficiencies found in the disclosure of Gibbs.

Indeed, the Examiner acknowledges that Good does not cure the deficiencies of Gibbs with respect to the steps related to the overall damage condition of the railcar. Instead, the Examiner asserts that Gibbs as a whole teaches the overall damage condition of rail equipment and that it would have been obvious to further modify the teachings of Gibbs in view of Good to include the overall damage condition of the rail equipment “because it provides a method for faster assistance, and more efficiently repairing of rail equipment (i.e., it is common to look at the over condition and then break it down part by part)” (*see* page 6 of the April 3, 2009 Office Action). However, in the present invention, the opposite steps are recited.

In the present invention, the rail equipment is inspected to determine a damage condition of each of the parts of the rail equipment. Information related to the damage condition of each of the parts of the rail equipment is input into a data entry system. From this information, the data entry system calculates the overall damage condition of the rail equipment, *i.e.*, information relating to the damage condition of each of the parts of the rail equipment. The data entry system also automatically assigns a disposition to the rail equipment based on the overall damage condition and generates at least one report showing the overall damage condition. In other words, the overall damage condition is determined from the damage condition of each of the parts, and is therefore opposite to the Examiner’s assertion that it is common to look at the

overall damage condition, then break it down part by part. Furthermore, nowhere does Gibbs disclose the presently claimed method steps related to the overall damage condition of the rail equipment, which is exemplified by the Examiner's failure to cite to any specific teaching in Gibbs disclosing these steps.

The Examiner also acknowledges that the combined references are still not specific to the data entry system automatically assigning a disposition to the rail equipment based on the overall damage condition of the rail equipment. While it may be arguable that automating a known process may be an obvious variation (as cited in MPEP 2144.04), it is respectfully submitted that the claimed process is not disclosed by the prior art of record, and therefore cannot be characterized as a "known" process. It is noted that the Examiner presumably relies on *In re Venner*, 262 F.2d 91, 95 (CCPA 1958) cited in MPEP 2144.04, sub-section III, for the proposition that replacing a manual activity with an automatic or mechanical means which accomplishes the same result is not sufficient to distinguish over the prior art. However, the Examiner has not identified a manual process which assigns a disposition to rail equipment based on the overall damage condition of the rail equipment. Good does not disclose this step as asserted by the Examiner. Instead, Good discloses personnel monitoring status and location of vehicles in order to manage reservations of the vehicles. For example, personnel in one region will not reserve a vehicle for an inter-regional trip that is scheduled for service in another region (see Good, Col. 7, ll. 25-38). Good not does disclose any assignment whatsoever of a disposition to rail equipment based on the overall damage condition of the railcar. Therefore, it is respectfully submitted that the present invention does not automate a "known" or manual process.

Finally, the Examiner relies on Kidd to teach automatically assigning a disposition of the rail equipment based on the overall damage condition of the rail equipment. Kidd discloses a method for quantifying vehicular damage information to generate an estimated change in velocity of each of the subject vehicles in an accident (*see* paragraphs 0004, 0006). The potential for injury can be derived from the change in velocity of the subject vehicles, and helps to reconcile actual injuries to occupants (*see* paragraph 0004). Kidd discloses determining the change in velocity of the subject vehicle by rating the damage of the subject vehicle components and crash test vehicle components and assigning an overall damage rating to each vehicle based on the damage ratings of the vehicle components (*see* paragraphs 0023, 0024, 0026, 0054, 0088, 0091). The subject vehicle damage rating is then compared with an identical crash test vehicle damage rating, or sister vehicle crash test vehicle damage rating, to determine whether the crash test based changes in velocity should be used (*see* paragraph 0092).

It is respectfully submitted that the combination of Kidd to Gibbs and Good is improper and one of ordinary skill in the art would not combine the teachings of Kidd to Gibbs or Good. Nowhere does Good or Gibbs disclose assessing vehicle components to determine a change in velocity of vehicles to assess injuries in vehicle accidents. Nothing related to the disclosure of Kidd is contemplated by Gibbs or Good, or the combination thereof. One of ordinary skill in the art would not look to Kidd, which discloses accident reconstruction and assessment methods for determining changes in velocity of two vehicles involved in a collision to assess injuries of occupants, to cure deficiencies in a railroad transportation network, as disclosed by Gibbs, or a vehicle service status tracking system, as disclosed by Good. Therefore, one of ordinary skill in the art would not combine the teachings of Kidd with Gibbs or Good, or both.

Even combining the teachings of Kidd with Good or Gibbs does not result in the present invention. Kidd does not disclose automatically assigning one of a plurality of dispositions to the rail equipment based on the overall damage condition of the rail equipment. Rather, Kidd is concerned with determining changes in velocities of vehicles involved in a collision or accident. The changes in velocity help to reconcile actual occupant injury reports to a potential for injury based on vehicular accident information (see Kidd paragraph 0004). Nowhere does Kidd disclose a data entry system that calculates an overall damage condition of rail equipment from information input into the data entry system, automatically assigns a disposition to the rail equipment based on the overall damage condition, and generates at least one report showing the overall damage condition. Accordingly, even combining the teachings of Kidd to the combined teachings of Good and Gibbs does not result in the claimed invention.

It is respectfully submitted that the Examiner has used impermissible hindsight reasoning to reconstruct Applicants' invention from pieces of prior art disclosure. It is clear that the Examiner has used Applicants' disclosure and claims as a blueprint to reconstruct the present invention from pieces of prior art disclosure scattered across three separate references. The result is that the Examiner has asserted and alleged that the invention would have been obvious to one of ordinary skill in the art, which in many instances is not supported by citation to the disclosures the Examiner relies upon. Accordingly, Applicants respectfully request withdrawal of the above rejections, and respectfully submit that the application is allowable.

As discussed above, none of the prior art references alone or in combination disclose a method for inspecting rail equipment, storing information relating to the inspection, and automatically generating a repair disposition report comprising, among other things, a data entry system that calculates an overall damage condition of a railcar from the information input,

automatically assigns one of a plurality of dispositions to the rail equipment based on the overall damage condition of the rail equipment, and generates at least one report showing the overall damage condition of the rail equipment and the disposition automatically assigned by the data entry system to the rail equipment, as provided in amended claim 1. In it also respectfully submitted that Jarrett does not cure the deficiencies of the references described above.

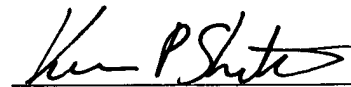
Accordingly, Applicants respectfully request withdrawal of the Examiner's rejections, and respectfully submit that claim 1 is allowable over the prior art made of record. Additionally, claims 2-11 depend on claim 1, and include all of its features. Therefore, for the above reasons, Applicants respectfully request withdrawal of the Examiner's rejections of claims 2-11, and respectfully submit that claims 2-11 are also allowable over the prior art made of record.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that the claims in the application are in allowable form and that the application is now in condition for allowance. If, however, any outstanding issues remain, Applicants invite the Examiner to telephone the Applicants' attorney so that the same may be resolved and the application expedited to issue. Applicants respectfully request the Examiner to indicate the claims as allowable and to pass the application to issue.

Respectfully submitted,

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